v. *Spalding,* 71 N. H. 163; *State* v. *Thompson,* 80 Me. 194; *Moody* v. *Rowell,* 17 Pick. (Mass.) 490; *Johnson* v. *Commonwealth,* 102 Va. 927. When the question is left to the judge, the genuineness of the standard offered for comparison must be established to his satisfaction by clear and positive proof. *Bragg* v. *Colwell,* 19 Ohio St. 407; *White* v. *White,* 21 Vt. 256; *Commonwealth* v. *Eastman,* 1 Cush. (Mass.) 217. In *People* v. *Molineux,* 168 N. Y. 264, 328, the court lays down the rule that in civil cases the judge must be satisfied of the genuineness of the specimen "by a fair preponderence of the evidence; in criminal cases beyond a reasonable doubt." By the Act of 17 & 18 Vict. c. 125 § 27, allowing "comparison of a disputed writing with any other writing proved to the satisfaction of the judge to be genuine" the common law rule was abrogated in England. Statutes similar to this are common in this country: CALIFORNIA, C. C. P., § 1944; MONTANA, C. C. P., § 3235; NEW YORK LAWS, 1880 c. 36, § 1; BIRDSEYE'S REV. ST., p. 1281; EVIDENCE ACT, § 91.

EXTRADITION—GROUNDS.—Petitioner was acquitted of murder in New York and was confined in a state institution for the insane from whence he escaped to New Hampshire. Extradition papers from New York were honored by the Governor of New Hampshire and petition for a writ of habeas corpus was brought to test the legality of the extradition. *Held,* in granting the writ; in order to have extradition there must be a person, a crime and a flight. Person means a responsible person, and when upon the face of the papers it appears that the person escaped from a custody based on insanity, the presumption arises that the person is still insane. The power of interstate extradition does not extend to return from a flight from guardianship custody, based on a decree of insanity, idiocy or irresponsibility or for process in the nature of civil process invoked for parental and protective purposes. The flight must be from a crime, and this does not include a flight from confinement. *Ex Parte Thaw,* (D. C. 1914) 214 Fed. 423.

This case presents an entirely new point for decision. The extradition power is conferred by the Constitution and so the only question is that of due process. The theory of the State of New York was based on the relation of guardian and ward, but in the whole history of extradition no one has ever succeeded in extending its operation further than flight from the consequences of a crime. *Pooley* v. *Whetham,* 15 Ch. Div. 435; *Roberts* v. *Reilly,* 116 U. S. 435. In cases of idiocy and lunacy other means have always been provided. *Norris* v. *Seed,* 3 Exch. 782, 53 Vict. c. 5, §§ 86, 89. This argues against the extension. The extradition power is in derogation of the common law and of an arbitrary and autocratic nature, and hence has always been very strictly construed and courts have used every means possible not to widen its scope. PIGGOT, EXTRADITION, 5. The papers must charge with particularity and certainty a crime and a responsible person. Where the papers describe a person as insane the intent and knowledge necessary to commit a crime can scarcely be presumed to exist. *Langdon* v. *People,* 133 Ill. 382. So it must follow that such papers are incomplete. As to flight it is universally held that flight in the constitutional sense must be from the

consequences of a crime and it can hardly be said in this case that the flight was from the crime of breaking out of the asylum; rather it was from the confinement.

GARNISHMENT—NATURE OF ACTION.—The plaintiffs and the defendant corporation were claimants of a fund of $25,000 which had been paid into court. The fund was awarded and paid to the corporation. The capital stock of the defendant amounted to $20,000, all of which was paid up; its resources were $4,000 in property and $3,000 in cash. After the award of the fund the corporation paid $6,000 to creditors and the remaining $22,000 of the fund to the stockholders, all of whom except one were directors. Meanwhile the plaintiffs appealed from the decision of award and the judgment was reversed in favor of the plaintiffs. Execution was issued and returned unsatisfied. Thereupon the plaintiffs garnished the stockholders. *Held,* that garnishment would lie. *Smith et al.* v. *Gruber Lumber Co.* (Wash. 1914), 142 Pac. 493.

Two theories of the case are advanced in the decision: first, that the corporation was an involuntary trustee, that it paid the fund to the stockholders under a mistake of fact, and that it could, therefore, recover from them in assumpsit; second, that the directors wrongfully depleted the capital stock of the company, and that the corporation could recover the money in assumpsit, on the ground that "whenever a person has in his hands money equitably belonging to another, that other person may recover it in assumpsit for money had and received." In most jurisdictions garnishment would be held to lie only upon the first theory of the case, as garnishment is maintainable to enforce only legal, and not equitable, demands. ROOD, GARNISHMENT, 45-47. It has been held, however, in some states that garnishment is a proceeding of an equitable character in which equitable issues may be presented and tried as in a court of chancery. *Shaver Wagon & Carriage Co.* v. *Halsted,* 78 Iowa 730, 43 N. W. 623; *LaCrosse Nat'l Bank* v. *Wilson,* 74 Wis. 391, 43 N. W. 153; *Whitney-Holmes Organ Co.* v. *Petitt,* 34 Mo. App. 536; *Cowles* v. *Coe,* 21 Conn. 220; *Maher* v. *Brown,* 2 La. 492. When garnishment is conducted as an equitable proceeding no reason appears why equitable rights may not thereby be attached as well as legal debts. *Candee* v. *Penniman,* 32 Conn. 228; *Cox* v. *Russell,* 44 Ia. 556; *Burnham* v. *Doolittle,* 14 Neb. 214, 15 N. W. 606; *Root* v. *Davis,* 51 Ohio St. 29, 36 N. E. 669. The courts differ as to whether dividends illegally declared and paid can be recovered from the stockholders at law, in equity, or at all. *Lexington Life &c. Ins. Co.* v. *Page,* 17 B. Mon. (Ky.) 412, 446; *Main* v. *Mills,* 6 Biss. 98, Fed. Cas. 8974; *Davenport* v. *Lines,* 72 Conn. 118; *McDonald* v. *Williams,* 174 U. S. 397. The usual and proper action in a case of this kind is clearly a proceeding in equity. COOK, CORPORATIONS, § 549. Upon the second theory of the case it seems that garnishment should be maintained, by the better doctrine, only in those jurisdictions where garnishment is looked upon as an equitable proceeding.

HIGHWAYS—PROPER USE OF.—Where a queue formed in front of the doors of a theatre owned by the defendant and extended in front of the plaintiff's place of business three doors below, thereby obstructing free